

to approximately 2% or less whereupon the encapsulated pigment granules are removed from the mixer; and

(2) mixing the encapsulated pigment granules with the landscaping and/or construction materials in an environment where water is present, whereby the encapsulated pigment granules will break down and release their pigment powder for mixing with the landscaping and/or construction materials, whereby to dye the same.

---

Remarks

In the outstanding Official Action, the Examiner:

(1) acknowledged Applicants' election without traverse of Group I, claims 1 and 2;

(2) rejected claims 1 and 2 under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention; and

(3) rejected claims 1 and 2 under 35 USC 103(a) as being unpatentable over Jungk in view of Pirtle et al. and Leon et al.

In response to Item 1 above, Applicants acknowledge the previous election of Group I, claims 1 and 2. Applicants

expressly reserve the right to prosecute all non-elected subject matter in related applications.

In response to Item 2 above, Applicants have now amended claims 1 and 2 so as to more clearly define the subject matter which the Applicants regard as the invention. Specifically, claim 1 of the present invention has now been amended to delete "the" prior to "cascading pigment" on line 7. Claim 2 of the present invention has now been amended to replace "mm" with -- microns -- on line 4. Accordingly, claims 1 and 2 are believed to be in condition for allowance, and allowance thereof is respectfully requested.

In response to Item 3 above, Applicants respectfully traverse the rejection of claims 1 and 2 under 35 USC 103(a) as being unpatentable over Jungk in view of Pirtle et al. and Leon et al. Applicants respectfully request reconsideration of the Examiner's rejection of claims 1 and 2 for the reasons which follow.

Turning first to claim 1, this claim calls for a novel process for preparing compacted pigment granules, the process comprising the step of the spraying, while the mixer is rotating, liquid binder solution onto cascading pigment powder whereby the cascading pigment powder is compacted into dense granules of

approximately 0.3-1.2 mm diameter and having a moisture content of approximately 10-14%. The liquid binder solution of claim 1 comprises polyvinyl alcohol.

The novel process of claim 1 provides compacted pigment granules which will remain free flowing after storage for a reasonable length of time, yet may thereafter be effectively dispersed throughout the landscaping and/or construction material with the presence of ordinary water. (See page 3, lines 6-12 of the specification.)

In use, the compacted pigment granules of the present invention are mixed with the landscaping and/or construction materials in an environment where water is present, whereby the compacted pigment will break down and release their pigment powder for mixing with the landscaping and/or construction material, whereby to dye the same. (See page 17, lines 2-8 of the specification.)

Applicants believe that Jungk discloses a process for dyeing concrete with uncompacted granules that consist of one or more binders for promoting the dispersal of the pigments in the concrete. Applicants further believe that Jungk discloses a process for making uncompacted granules using "conventional rotating suitable palletizing plates" in which pigment powders

are fed via metering screw conveyors and the binders dissolved in water are delivered in drops to the plate. Jungk also discloses creating uncompacted granules through the use of a rotating granulating drum, or a roll or belt dryer with subsequent granulation, or a spray tower, etc. However, Jungk expressly teaches away from creating compacted granules. See, for example, Jungk at col. 2, lines 55-62; col. 7, lines 17-18; and col. 8, lines 27-29. Thus, Applicants believe that Jungk teaches away from preparing compacted pigment granules. Applicants believe that Jungk requires granules which essentially consist of uncompacted pigment and one or more binders for promoting the dispersal of the pigment in concrete. Jungk states that granules made by compacting processes cannot be used in the process in accordance with the Jungk invention because they can be dispersed only with difficulty. (See column 2, lines 53-62.)

Applicants have also carefully reviewed Pirtle et al. and Leon et al. and believe that the prior art of record does not disclose or suggest a process for preparing compacted pigment granules, the process comprising the step of spraying, while the mixer is rotating, a polyvinyl alcohol liquid binder solution onto cascading pigment powder whereby the cascading pigment powder is compacted into dense granules of approximately 0.3-1.2

mm diameter and having a moisture content of approximately 10-14%. Accordingly, claim 1 is believed to be in condition for allowance and allowance thereof is respectfully requested.

Turning next to claim 2, this claim calls for a novel process for preparing encapsulated pigment granules, the process comprising the steps of rotating the mixer with the pigment powder cascading within the mixer so as to result in the formation of pigment granules of approximately 0.30-1.20 mm diameter, and spraying, while the mixer is rotated, liquid encapsulation solution onto the cascading pigment granules whereby the liquid encapsulation solution encapsulates the cascading pigment granules.

The novel process of claim 2 provides encapsulated granules which will remain free flowing after storage for a reasonable length of time, yet may thereafter be effectively dispersed throughout the landscaping and/or construction material with the presence of ordinary water. (See page 3, lines 13-19 of the specification.) Encapsulated pigment granules are particularly advantageous in that the encapsulant is concentrated on the outer surface of the granules so as to permit the pigment powder to flow freely once the encapsulant is broken.

In use, the encapsulated pigment granules are mixed with the landscaping and/or construction materials in an environment where water is present, whereby the encapsulated pigment granules will break down and release their pigment powder for mixing with the landscaping and/or construction materials, whereby to dye the same. (See page 27, lines 1-7 of the specification.)

Applicants believe that the prior art of record, including Jungk, do not disclose a process for preparing encapsulated pigment granules comprising the steps of rotating the mixer and then spraying liquid encapsulation solution onto the cascading pigment granules. Applicants believe that Jungk discloses a process for preparing pigment granules using a mixture of pigment, binder and liquid to form pigment granules having a relatively homogeneous structure rather than the encapsulated structure of the pigment granules recited in claim 2.

Applicants' encapsulated pigment granules are highly advantageous during use, since once Applicants' encapsulation layer is broken, the pigment is released for mixing. Thus, Applicants' pigment granules are easier to break down than Jungk's granules, which have a binder throughout the granule. Applicants further believe that the additional prior art of record (i.e., Pirtle et al., Leon et al. and the other prior art of record) does not disclose

or suggest a process for preparing encapsulated pigment granules. Accordingly, claim 2 is believed to be in condition for allowance, and allowance is respectfully requested.

In view of the foregoing, claims 1 and 2 are believed to be in condition for allowance. Early and favorable reconsideration is therefore respectfully solicited.

Respectfully submitted,

*Mark J. Pandiscio* 6/27/03

Mark J. Pandiscio

Registration No. 30,883

Pandiscio & Pandiscio

470 Totten Pond Road

Waltham, MA 02451-1914

Tel. No.: (781) 290-0060

TS/GIL3.AMD4

GIL-3